

MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 11th DAY OF JANUARY, 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 5:30PM.

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Tom Cole, Mac Woodward, Jack Wagamon, Wayne Barrett, Dalene Zender, Charles Forbus, Lanny Ray

COUNCILMEMBERS ABSENT: Melissa Mahaffey

OFFICERS PRESENT: Bill Baine, City Manager

SPECIAL SESSION* [5:30PM]

1. CALL TO ORDER

Mayor Turner called the meeting to order at 5:31pm.

2. PLEDGES OF ALLEGIANCE

3. INVOCATION

Councilmember Barrett gave the invocation.

4. PUBLIC COMMENT

There were no public comments.

5. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. *Discussion and possible action to continue to resist rate increase through a coalition of cities in opposition to a rate change increase request by Entergy, by adoption of Suspension Ordinance, Ordinance 2010-18, first reading. [Bill Baine, City Manager] (This item was handled after the Statutory Agenda item, as it was an addendum to the agenda.)*

City Manager Bill Baine said on or around December 2nd, the City received a notice of rate increase from Entergy, which he forwarded to the City Attorney Leonard Schneider, who in turn sent it to the Lawton Law Firm who generally takes care of the City's issues with Entergy. Mr. Baine said Entergy asked the City to approve or disapprove the rate increase, but that either way the request for increase would then go to the state regulators.

Mr. Baine said Lawton sent the City a letter saying they would prefer to be asked by a coalition of Texas cities, and that the cities should request Entergy's action be delayed by 90 days to see what the courses of action are, prior to the chance for a second regularly scheduled meeting. Mr. Baine said Lawton asked the Council to consider Ordinance 2010-18 and that this was a first reading. He further said the options were to say yes, say no, or hold for 90 days and then say no to Entergy.

Councilmember Woodward asked about the sample ordinance Entergy had sent, and the Mayor permitted Entergy's representative Stan Foley to speak. Mr. Foley said that a rate case was filed on December 30th with the Public Utility Commission of Texas and filed with every city in which Entergy had jurisdiction. He confirmed the options Mr. Baine had outlined.

Councilmember Wagamon asked if the PUC had the option not to approve the rate increase. Mr. Foley replied they did, that once a case was filed with the PUC, a series of hearings over one year would end in some type of order in response to the filing, and did have the option to approve all, some or none.

The City Manager read the letter from the Lawton Law Firm as to their position. He said it was routine for City Managers and City Attorneys to send things related to utilities to law firms that specialize in those issues. Mr. Baine also pointed out that a 20-3% increase during a recession when natural gas prices were "in-the-tank" would seem to be a little bit, on the surface, inexplicable.

Councilmember Woodward asked if the draft ordinance was prepared by the City Attorney, the Mayor said he believed it was prepared by the Lawton Law Firm.

6. STATUTORY AGENDA

- a. **To approve Task Order #1 under the GSA with Klotz and Associates for the Preliminary Engineering for the Town Creek Drainage Improvement Project. [Tom Weger, Project Manager]**

City Manager Bill Baine reminded the Council that when the grant was written it included the funding for the drainage study as a part of the grant. He referred to a letter in the agenda packed from FEMA to Greg Pekar, the City's liaison for the state, and the four pages of questions from FEMA about the engineering of the project. Mr. Baine said he needed \$50,000 to get the answers from the engineering company. He said he also asked the University for \$12,500, and had asked the County Judge for \$5,000. He said he felt confident the University would fund, but did not have the same level of confidence about the County. He further said he needed to answer the FEMA questions by February 15, 2010.

The City Manager said he had told the engineering company to begin work, but that he would not cover the full amount without a special session of Council. He said the \$50,000 was in the budget and within his discretion [to spend], but he did not feel right spending it since he had previously said the project would not cost the City until the grant had been awarded. The City Manager said he believed the engineering company was being reasonable with their charges.

Councilmember Forbus asked if the \$50,000 would come off the City's match for the grant. The City Manager said he believed it would come off the match because FEMA had told him that. He said he thought the City might be risking \$37,500 but that he thought it a reasonable risk.

Councilmember Forbus asked if the City Manager thought the work received for this amount would be enough to satisfy the FEMA questions. The City Manager said he thought it would, and this was echoed by Tom Weger, Project Manager.

Councilmember Forbus asked the City Manager if he would continue to ask for the \$5,000 from the County. The City Manager recounted three occasions on which he had asked the County for the amount, but said the Council should not depend on that.

Councilmember Woodward asked of what benefit the \$50,000 of engineering would be if the City did not receive the grant. The City Manager said it was his intention [to move forward] until he was told not to, had bought the right-of-way, and would come back to Council to ask for \$70,000 to complete the engineering and would want to build the lakes anyway. He said metering the water is his only method of keeping the downtown fairly safe, and that the work has to be done whether comprehensively and correctly or as patchwork. He said they would continue to look for other grants, but that the work had to be done.

Mr. Weger said the engineering work would also provide a preliminary basis for the drainage study in that area and is information that would be required anyway. He said the study is typically done before moving into grants and would not be wasted money.

Councilmember Wagamon suggested that they discuss what would occur and who would be involved if the City did not receive the grant.

Councilmember Ray asked for and received confirmation from the City Manager that the City would have no chance of receiving the grant if they did not do the engineering study being requested.

Councilmember Barrett said it was a good sign that FEMA was responding and requesting more information, but that discussion of benefit-cost analysis seemed to keep coming up in the documentation, and what appeared to be a strong factor was a computation about flooding. He asked how important a factor was the City's being subject to flooding toward receiving the grant.

The Mayor said FEMA's response seemed to have benefit-cost analysis as a primary concern and that it seemed to look backward more than forward, and at how much has been said about flooding. Mr. Weger said there have been several events, that the City's change in elevation is 250' and that water runs off fairly fast. He said there was major flooding in 1972 and 1994, and that the flooding was subjective and typical for the region, but that there had been significant damage. Mr. Weger said doing detention upstream would negate the potential for flooding and that FEMA recognized this.

The Mayor said FEMA seemed rather focused on this and pointed out sections of several questions. He said he was a little unclear as to how Town Creek would negatively impact Huntsville being a shelter city. The City Manager said it would assume a 4.2" rain in an hour, which had not occurred since 1972 and that he knows that it has happened in the past. He said that if the pipes collapse, water on top of the roads would wash out bridges at 11th, 10th and 7th, and that the City would not have the money to fix them. He said he was pretty confident that if the City did nothing, they would have to find a solution for that, and for the University's water. Mr. Baine said he didn't feel they had a choice not to do anything; only whether the City would pay for it or if the federal government would assist, and that that was the reason the grant was being pursued.

The Mayor asked what the Emergency Response Building was, as referenced in the FEMA questions. Mr. Baine said it was the EMS station next to the library [the grant proposal was written before the library election].

The Mayor said he would like to compliment staff on getting the participation of other stakeholders, and was comforted by the fact that the University is going to help share the cost, and would be more comforted if the County was on board, as the rebuilding of the County Annex seemed to be a key point in the proposal. He said it seemed to him that FEMA's primary points were looking for documentation for how much damage there had been to date, and that the project had great potential and would be great for the City, but that he was also very skeptical that Klotz & Associates was going to be able to come up with historical damage of \$10 million in the last 20 years. He said he thought they would come up with a great study, for which there was a need, and that he could support the measure because that they had zero chance without it, but was skeptical that it would get the City where it needed to be to respond to FEMA although he hoped it would.

Councilmember Forbus said one impact of the drainage was that the piping infrastructure has deteriorated and perhaps that could be included in the cost analysis, and that it was financially significant. Mr. Weger recounted a structure on Sam Houston Avenue rebuilt by TxDOT a few years ago, and that there had been three other failures in that area. He said he felt this would continue and that FEMA would recognize it.

Councilmember Forbus made a motion to approve Task Order #1. Councilmember Ray seconded the motion.

Councilmember Woodward asked for the estimated cost on a drainage study and Mr. Weger said it was around \$250,000, approx. 10-15 years ago. Mr. Weger said this study was covering roughly a quarter to a half of the Town Creek Watershed, estimated at about 40-60% of Huntsville.

The Mayor asked for an estimate for how much of the \$50,000 would be used for information going forward versus historic, as far as addressing the FEMA questions. Mr. Weger said his rough guess was 40% historic and 60% future.

Councilmember Woodward asked what was defined by the term subapplication, and was told by Dr. Sherry McKibben, Community Development Specialist, that the state was the applicant and Huntsville was a subapplicant. Mr. Baine said the state had approved the City's application, and also that he expected staff to do the history, not Klotz.

Councilmember Barrett said he felt that more than one thing was being discussed simultaneously, and that he would still like to hear comment as to whether or not the City's position would be strengthened after historical information was supplied to FEMA in relation to the criteria of the grant. Dr. McKibben said that the main issue FEMA has with the benefit-cost analysis was that the City didn't use FEMA's software. She went on to say that Klotz did the cost-benefit in April, that the information was in the application, and many of the questions were already answered, but that FEMA wanted it transferred into their software, which she had found to be difficult to use previously. Dr. McKibben further said she felt it would strengthen the grant application.

Councilmember Wagamon asked if the material Klotz had done in April was the typed 1972 report the Council had seen before. Dr. McKibben confirmed that it was, that it had been updated and input it into a software program and do the computations at current prices.

Councilmember Woodward said he felt the Council had possibly been backed into a corner, that Councilmember Ray had stated it well, and that he felt the Council was being pressured. Councilmember Zender said she felt the same way but also felt it was worth taking the chance, and wanted to know when notification of award of the grant would be given. Dr. McKibben said two to three months had been the stock answer she had received every time she had asked since August.

The Mayor asked how long it would take Klotz to do their work; Dr. McKibben responded that they had to have their answers to the state by February 1st.

Councilmember Forbus asked Dr. McKibben if she felt as sure as Mr. Baine about the City receiving the grant, she responded that she did. She further said that state has asked the City to apply for an additional grant under the same grant, indicating they felt good about it.

The motion passed unanimously, 8-0.

7. PUBLIC COMMENT

There were no public comments.

8. ITEMS OF COMMUNITY INTEREST

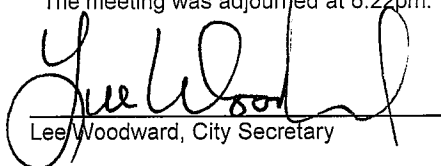
~~The Mayor mentioned the TxDOT meeting on Thursday, January 14th, at 5:30pm at the Prison Museum on the~~

Highway 19 project, and encouraged Councilmembers to attend. He also said that he had recently been in Austin and had been told by the TxDOT District Engineer that, due to reconfiguration, Phase I & Phase II could be accomplished with the \$15 million. He said he felt it was an exciting development, that it not only increased the capacity of the road, but also reengineered the exits and access points crucial to safety on the road. He said there had been some concerns about the termination of Highway 19 at I-45 and that there would be a U-turn, and the map would be presented at the Thursday meeting. The Mayor also encouraged citizens to attend to ask questions or simply to express appreciation to TxDOT.

Councilmember Forbus also mentioned the Wounded Warrior Banquet the same evening at the Walker County Fairgrounds, and that the HOT Board meeting would not be held that evening.

9. ADJOURNMENT

The meeting was adjourned at 6:22pm.


Lee Woodward, City Secretary

PRESENTED TO COUNCIL

2/2/10 YW - approved